

Original

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name Bodie Roderick
(Last) (First) (Initial)

Prisoner Number K-58959

Institutional Address P.O. Box 689 Soledad, CA. 93960

FILED

APR 14 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RODERICK BODDIE

(Enter the full name of plaintiff in this action.)

vs.

BEN CURRY, Warden (A)

(Enter the full name of respondent(s) or jailor in this action)

CV

Case No. 08-1956

(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

SBA

E-filing

(PR)

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

PET. FOR WRIT OF HAB. CORPUS

- 1 -

08-1956-SBA

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda

County Superior Court, Oakland):

Contra Costa County Superior Martinez, CA.

Court

Location

(b) Case number, if known 902266-6

(c) Date and terms of sentence 8-16-91; 5 years

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes _____ No x

Where?

Name of Institution: _____

Address: _____

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)
P.C. §§242/243(d), 245(a)(1), and 12022.7

petition?

Yes _____ No _____

(c) Was there an opinion?

Yes _____ No _____

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes _____ No _____

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes _____ No x

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: Contra Costa County Superior Court

Type of Proceeding: Habeas Corpus

Grounds raised (Be brief but specific):

a. State violated prohibition against plea bargain-
ing in serious felony cases.

b. _____

c. Due Process and Equal Protection violations

d. _____

Result: Denied Date of Result: UNK.

II. Name of Court: Court of Appeal First Appellate Dist.

Type of Proceeding: Habeas Corpus

Grounds raised (Be brief but specific):

(Same As Above)

a. _____
b. _____
c. _____
d. _____

Result: Denied Date of Result: UNK.

III. Name of Court: California Supreme Court

Habeas Corpus
Type of Proceeding: _____

Grounds raised (Be brief but specific):

(Same As Above)
a. _____
b. _____
c. _____
d. _____

Result: Denied Date of Result: 3-12-08

IV. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

a. _____
b. _____
c. _____
d. _____

Result: _____ Date of Result: _____

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes x No _____

Name and location of court: U.S. District Court/Northern Dist.

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: Trial Court violated Prohibition barring plea bar-
6 gaining in serious felony cases, thereby violation the
7 Due Process and Equal Protection Clauses of the U.S.

8 Constitution.

9 Supporting Facts: On October 9, 1990, Petitioner entered into a 5
10 year plea agreement for violating Cal. Pen. Code §§242/243
11 (d), 245(a)(1) and 12022.7. All serious felonies. Records
12 reveal that there was overwhelming evidence to convict Pet-
13 itioner, and that the five years he received was a substan-
14 tial reduction of the amount of time he could have received
15 without the agreement. In a subsequent proceeding, the court
16 utilized the illegal conviction to strike him out.

17 Claim Two:

18 Supporting Facts:

19 Claim Three:

20 Supporting Facts:

21 If any of these grounds was not previously presented to any other court, state briefly which
22 grounds were not presented and why:

23 *Each ground was presented in the superior court, court of
24 appeal, and California Supreme Court (Supreme Court decision
25 at Appendix A).

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 United States v. Solerno, 481 U.S. 739, 746; Rochin v. Calif-
5 ornia, 342 U.S. 165, 172; Palko v. Connecticut, 302 U.S. 319,
6 325-26

7 Do you have an attorney for this petition?

Yes _____ No x

8 If you do, give the name and address of your attorney:

9 _____
10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on March 27, 2008

14 Date

Roderick Bodie

Signature of Petitioner

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20 (Rev. 6/02)

Case Number: _____

CERTIFICATE OF FUNDS
IN
PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of _____ for the last six months at

[prisoner name]

_____ where (s)he is confined.

[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ _____ and the average balance in the prisoner's account each month for the most recent 6-month period was \$ _____.

Dated: _____

[Authorized officer of the institution]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RODERICK BODDIE

Plaintiff,

vs.

BEN CURRY, Warden (A)

Defendant.

CASE NO. _____

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

I, Roderick Boddie, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ___ No x

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: _____ Net: _____

Employer: _____

1 If the answer is "no," state the date of last employment and the amount of the gross and net
 2 salary and wages per month which you received. (If you are imprisoned, specify the last
 3 place of employment prior to imprisonment.)

4 UNK.

5
 6
 7 2. Have you received, within the past twelve (12) months, any money from any of the
 8 following sources:

9 a. Business, Profession or Yes ___ No x
 10 self employment

11 b. Income from stocks, bonds, Yes ___ No x
 12 or royalties?

13 c. Rent payments? Yes ___ No x

14 d. Pensions, annuities, or Yes ___ No x
 15 life insurance payments?

16 e. Federal or State welfare payments, Yes ___ No x
 17 Social Security or other govern-
 18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount
 20 received from each.

21
 22
 23 3. Are you married? Yes ___ No x

24 Spouse's Full Name: _____

25 Spouse's Place of Employment: _____

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ _____ Net \$ _____

28 4. a. List amount you contribute to your spouse's support: \$ _____

- b. List the persons other than your spouse who are dependent upon you for support and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

None

5. Do you own or are you buying a home? Yes ___ No x

Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

6. Do you own an automobile? Yes ___ No x

Make _____ Year _____ Model _____

Is it financed? Yes ___ No _____ If so, Total due: \$ _____

Monthly Payment: \$ _____

7. Do you have a bank account? Yes ___ No x (Do not include account numbers.)

Name(s) and address(es) of bank: _____

Present balance(s): \$ _____

Do you own any cash? Yes ___ No x Amount: \$ _____

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes ___ No x

8. What are your monthly expenses?

Rent: \$ _____ 0 Utilities: _____ 0

Food: \$ _____ 0 Clothing: _____ 0

Charge Accounts:

Name of Account	Monthly Payment	Total Owed on This Acct.
N/A	\$ _____	\$ _____
	\$ _____	\$ _____
	\$ _____	\$ _____

9. Do

1 you have any other debts? (List current obligations, indicating amounts and to whom they are
2 payable Do not include account numbers.)

3 None

4
5 10. Does the complaint which you are seeking to file raise claims that have been presented
6 in other lawsuits? Yes No x

7 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in
8 which they were filed.

9 N/A

10
11 I consent to prison officials withdrawing from my trust account and paying to the court
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and
14 understand that a false statement herein may result in the dismissal of my claims.

15
16 March 27, 2008

17 DATE

Roderick Boddie

18 SIGNATURE OF APPLICANT
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APPENDIX A

S156573

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re RODERICK BODDIE on Habeas Corpus

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Clark* (1993) 5 Cal.4th 750.)

**SUPREME COURT
FILED**

MAR 12 2008

Frederick K. Ohlrich Clerk

Moreno, J., was absent and did not participate.

Deputy

GEORGE

Chief Justice

**PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY**

(C.C.P. §§ 1013(A), 2015,5)

I, Roderick Boddie, declare:

I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

Roderick Boddie, CDCR #: K-58959
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: DW-124L
SOLEDAD, CA 93960-0689.

On March 31, 2008, I served the attached:
Petition For Writ of Habeas Corpus

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

United States District Court
Northern District of California
U.S. Courthouse
450 Golden Gate Ave.
San Francisco, CA. 94102-3483

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 31, 2008.

Roderick Boddie
Roderick Boddie
Declarant In Pro Per

Roderick Boddie K-58959
Central Facility D-Wing 124-L
P.O. 689
Soledad, CA 93960

United States District Court
Northern District of California
U.S. Courthouse
450 Golden Gate Ave.
San Francisco CA 94102-3483